

LC02181/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO HEALTH AND SAFETY -- MERCURY REDUCTION AND EDUCATION
ACT

Introduced By: Senators Sosnowski, Blais, Breene, and Celona

Date Introduced: February 13, 2003

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

SECTION 1. Sections 23-24.9-6, 23-24.9-7, 23-24.9-8, 23-24.9-9, 23-24.9-10, 23-24.9-11, 23-24.9-16 and 23-24.9-19 of the General Laws in Chapter 23-24.9 entitled "Mercury Reduction and Education Act" are hereby amended to read as follows:

23-24.9-6. Restrictions on the sale of certain mercury-added products. -- (a) No later than January 1, 2003, no mercury-added novelty shall be offered for final sale or use or distributed for promotional purposes in Rhode Island. Manufacturers that produce and sell mercury-added novelties must notify retailers about the provisions of this product ban and how to dispose of the remaining inventory properly. The requirements of this section shall apply to all mercury-added novelties irrespective of whether or not the product is exempt from the phase-out requirements of section 23-24.9-11.

(b) No mercury fever thermometer may be distributed, sold or offered for sale in this state on or after January 1, 2002, except by prescription. As used in this section, the term "mercury fever thermometer" includes any device containing mercury in which the mercury is used to measure the internal body temperature of a person. This restriction shall not apply to digital thermometers utilizing mercury-added button cell batteries. The manufacturers of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescription. Mercury fever thermometers manufacturers must also comply with

1 sections 23-24.9-5 and 23-24.9-7 -- 23-24.9-10.

2 (c) After January 1, 2003, no school in Rhode Island may use or purchase for use in a
3 primary or secondary classroom, bulk elemental or chemical mercury, or mercury compounds.
4 Manufacturers that produce and sell such materials must notify retailers about the provisions of
5 this ban and how to dispose of the remaining inventory properly. Other mercury-added products
6 that are used by schools are not subject to this prohibition.

7 (d) This ban on sale, use or distribution shall not apply to a novelty incorporating one or
8 more ~~replaceable~~ mercury-added button cell batteries as its only mercury-added component or
9 components.

10 **23-24.9-7. Phase-out and exemptions.** -- (a) No mercury-added product shall be offered
11 for final sale or use or distributed for promotional purposes in Rhode Island if the mercury
12 content of the product exceeds:

13 (1) One gram (1000 milligrams) for mercury-added fabricated products or two hundred
14 fifty (250) parts per million (ppm) for mercury-added formulated products, effective ~~two (2) years~~
15 ~~from July 13, 2004~~ July 1, 2005;

16 (2) One hundred (100) milligrams for mercury-added fabricated products or fifty (50)
17 parts per million (ppm) for mercury-added formulated products, effective ~~four (4) years from July~~
18 ~~13, 2004~~ July 1, 2007; and

19 (3) Ten (10) milligrams for mercury-added fabricated products or ten (10) parts per
20 million (ppm) for mercury-added formulated products, effective ~~six (6) years from July 13, 2004~~
21 July 1, 2009.

22 (b) For a product that contains one or more mercury-added products as a component, this
23 section is applicable to each component part or parts and not to the entire product. For example, if
24 an iron has a mercury switch, the phase-out applies to the switch and not the entire iron.

25 (c) For a product that contains more than one mercury-added product as a component,
26 the phase-out limits specified in subsection (a) of this section apply to each component and not
27 the sum of the mercury in all of the components. For example, for a car that contains mercury-
28 added switches and lighting, the phase-out limits would apply to each component separately, and
29 not the combined total of mercury in all of the components.

30 (d) (1) Fluorescent lamps shall be exempt from the requirements of subsection (a) of this
31 section. As of January 1, 2010, the mercury content of fluorescent bulbs shall either not exceed
32 ten (10) milligrams or the manufacturer shall comply with the exemption requirements pursuant
33 to subsection (f) of this section.

34 (2) Specialized lighting used in the entertainment industry, such as metal halide lights,

1 shall be exempted from the requirements of section 23-24.9-7(a).

2 (e) A mercury-added product shall be exempt from the limits on total mercury content
3 set forth in subsection (f) of this section if the level of mercury or mercury compounds contained
4 in the product are required in order to comply with federal or state health or safety requirements.
5 In order to claim exemption under this section, the manufacturer must notify the department, in
6 writing, and provide the legal justification for the claim of exemption.

7 (f) Manufacturers of a mercury-added product may apply to the director for an
8 exemption for no more than two (2) years from the limits on total mercury content set forth in
9 subsection (a) of this section for a product or category of products. Applications for exemptions
10 must: (1) document the basis for the requested exemption or renewal of exemption; (2) describe
11 how the manufacturer will ensure that a system exists for the proper collection, transportation and
12 processing of the product(s) at the end of their useful life; and (3) document the readiness of all
13 necessary parties to perform as intended in the planned system.

14 (g) The director may grant, with modifications or conditions, an exemption for a product
15 or category of products if he or she finds: (i) a system exists for the proper collection,
16 transportation and processing of the mercury-added product, including direct return of a waste
17 product to the manufacturer, an industry or trade group supported collection and recycling
18 system, or other similar private or public sector efforts; and (ii) he or she finds each of the
19 following criteria are met:

20 (1) Use of the product is beneficial to the environment or protective of public health or
21 protective of public safety; and

22 (2) There is no technically feasible alternative to the use of mercury in the product; and

23 (3) There is no comparable non-mercury-added product available at reasonable cost.

24 Prior to issuing an exemption, the director shall consult with neighboring states and
25 provinces and regional organizations to promote consistency. The state shall avoid, to the extent
26 feasible, inconsistencies in the implementation of this section. Upon reapplication by the
27 manufacturer and findings by the director of continued eligibility under the criteria of this
28 subsection and of compliance by the manufacturer with the conditions of the director's original
29 approval, an exemption may be renewed one or more times and each renewal may be for a period
30 of no longer than two (2) years.

31 **23-24.9-8. Labeling required for certain products.** -- (a) Mercury-added products. - (1)
32 Effective ~~January 1, 2004~~ July 1, 2005, a manufacturer may not sell at retail in this state or to a
33 retailer in this state, and a retailer may not knowingly sell, a mercury-added product unless the
34 item is labeled pursuant to this subsection. The label must clearly inform the purchaser or

1 consumer that mercury is present in the item and that the item may not be disposed of or placed in
2 waste stream destined for disposal until the mercury is removed or reused, recycled or otherwise
3 managed to ensure that it does not become part of solid waste or wastewater. Manufacturers shall
4 affix to mercury-added products labels that conform to the requirements of this subsection.

5 (2) The department shall adopt rules to establish standards for affixing labels to the
6 product and product package. The rules must strive for consistency with labeling programs in
7 other states and provide for approval of alternative compliance plans by the department. This
8 subsection does not apply to mercury-added lamps, mercury-added button cell batteries and
9 products whose only mercury component is a mercury button cell battery or a mercury added
10 lamp.

11 (b) Mercury-added lamps: large use applications. - (1) A person who sells mercury-
12 added lamps to the owner or manager of an industrial, commercial or office building or to any
13 person who replaces or removes from service outdoor lamps that contain mercury shall clearly
14 inform the purchaser in writing on the invoice for the lamps or in a separate document that the
15 lamps contain mercury, a hazardous substance that is regulated by federal and state law, and that
16 they may not be placed in solid waste destined for disposal. Retail establishments that
17 incidentally sell mercury-added lamps to the specified purchasers are exempt from the
18 requirements of this subsection.

19 (2) A person who contracts with the owner or manager of an industrial, commercial or
20 office building or with a person responsible for outdoor lighting to remove from service mercury-
21 added lamps shall clearly inform in writing the person for whom the work is being done that the
22 lamps being removed from service contain mercury and what the contractor's arrangements are
23 for the management of the mercury in the removed lamps.

24 **23-24.9-9. Disposal ban.** -- (a) After ~~January 1, 2004~~ July 1, 2005, no person shall
25 dispose of mercury-added products in a manner other than by recycling or disposal as hazardous
26 waste. Mercury from mercury-added products may not be discharged to water, wastewater
27 treatment, and wastewater disposal systems except when it is done in compliance with local,
28 state, and federal applicable requirements.

29 (b) If a formulated mercury-added product is a cosmetic or pharmaceutical product
30 subject to the regulatory requirements relating to mercury of the federal food and drug
31 administration, then the product is exempt from the requirements of this section.

32 (c) This section shall not apply to: (1) anyone who disposes of a mercury-added button
33 cell battery; (2) mercury-added components as contained in motor vehicles; and (3) households
34 disposing of lamps and products containing lamps.

1 **23-24.9-10. Collection of mercury-added products. --** (a) After ~~January 1, 2003~~ July 1,
2 2005, no mercury-added product shall be offered for final sale or use or distribution for
3 promotional purposes in Rhode Island unless the manufacturer either on its own or in concert
4 with other persons has submitted a plan for a convenient and accessible collection system for
5 such products when the consumer is finished with them and the plan has received approval of the
6 director. Where a mercury-added product is a component of another product, the collection
7 system must provide for removal and collection of the mercury-added component or collection of
8 both the mercury-added component and the product containing it.

9 (b) (1) This section shall not apply to the collection of mercury-added button cell
10 batteries or mercury-added lamps or products where the only mercury contained in the product
11 comes from a mercury-added button cell battery or a mercury-added lamp; and

12 (2) This section shall not apply to motor vehicles.

13 **23-24.9-11. Disclosure for mercury-added formulated products -- Healthcare**
14 **facilities. --** (a) By ~~January 1, 2003~~ July 1, 2005, the manufacturers of formulated mercury-added
15 products offered for sale or use to a health care facility in Rhode Island must provide both the
16 director and the recipient healthcare facility a certificate of analysis documenting the mercury
17 content of the product, down to a one part per billion level. Such formulated mercury-added
18 products include, but are not limited to: acids; alkalis; bleach (sodium hypochlorite); materials
19 used for cleaning, in maintenance, or for disinfection; stains; reagents; preservatives; fixatives;
20 buffers; and dyes.

21 (b) The certificate of analysis must report the result of an analysis performed for mercury
22 on the specific batch or lot of that product offered for sale. The batch or lot number of the product
23 shall be clearly identified on the product and on the certificate of analysis.

24 **23-24.9-16. Violations. --** ~~A~~ Effective July 1, 2005, a violation of any of the provisions
25 of this law or any rule or regulation promulgated pursuant thereto shall be punishable, in the case
26 of a first violation, by a civil penalty not to exceed one thousand dollars (\$1,000). In the case of a
27 second and any further violations, the liability shall be for a civil penalty not to exceed five
28 thousand dollars (\$5,000) for each violation.

29 **23-24.9-19. Mercury advisory working group. --** The department of environmental
30 management shall be authorized to coordinate the development of a mercury reduction and
31 education advisory working group ~~to examine the need for additional legislative and regulatory~~
32 ~~changes~~ to advise the department with regard to the development of regulations and programs for
33 the implementation of the provisions of this chapter and with regard to public education
34 pertaining to the continued elimination of mercury-added products in the State of Rhode Island.

1 This advisory working group may include, but not be limited to, designees from the following:
2 the general assembly, department of environmental management, department of health, the
3 attorney general's office, state and/or national organizations interested in mercury reduction and
4 education, consumer and children's advocacy groups, local chambers of commerce, and those
5 industries that manufacture consumer products which contain mercury.

6 SECTION 2. Chapter 23-24.9 of the General Laws entitled "Mercury Reduction and
7 Education Act" is hereby amended by adding thereto the following section:

8 **23-24.9-2.1. Oversight and systems planning.** -- (a) The general assembly further finds:
9 (1) that reduction and elimination of health and environmental threats from mercury is a highly
10 complex undertaking requiring cooperation among policy makers, public health and
11 environmental officials and advocates, private businesses from diverse industries and sectors,
12 consumers, and the general public within Rhode Island and depending on actions in other states
13 and at the federal level; (2) that systems planning is critical to the smooth, effective, and efficient
14 implementation of programs to reduce and eliminate health and environmental threats from
15 mercury in Rhode Island; (3) that the implementation of the provisions of this chapter between
16 July 2001 and July 2003 has been incomplete and partial and has given rise to unintended
17 consequences; and (4) that additional time is required to study how to make the provisions of this
18 chapter more efficient and effective and to provide for needed systems planning.

19 (b) (1) There is hereby created a fourteen (14) member commission on oversight and
20 planning for mercury hazard reduction and elimination with the following membership: nine (9)
21 members to be appointed by the governor; four (4) representatives of private business; one (1) of
22 whom shall be an engineer with expertise in manufacturing processes and pollution prevention;
23 one (1) of whom shall be an expert on the effects of mercury on public health and/or the
24 environment; one (1) of whom shall be a representative of consumer interests, and two (2) of
25 whom shall be representatives of advocacy organizations, and five (5) of whom shall be ex
26 officio, voting members: the director of the department of environmental management, the
27 director of the department of health, the executive of the Rhode Island economic development
28 corporation, the executive director of the Rhode Island resource recovery corporation, and the
29 executive director of the Rhode Island League of Cities and Towns. The ex-officio members may
30 designate an alternate in writing who shall have voting privileges. The members of the
31 commission shall not receive compensation services. From the membership of the commission,
32 the Governor shall designate a chairperson.

33 (2) The purposes of the commission shall be to study the system for reducing and
34 eliminating mercury hazards in Rhode Island, including, but not limited to: (A) identifying

1 current and projected sources of mercury hazards; (B) evaluating programs and efforts to reduce
2 the sources in a cost-effective and efficient manner that does not place Rhode Island at a
3 disadvantage with other states; (C) building on effective efforts in other states and achieving a
4 consistency with other states in terms of approach and timing of implementation; and (D)
5 determining the availability and effectiveness to consumers and the public of programs, facilities
6 for disposal and recycling mercury-added products, and education about mercury-added products
7 and mercury hazards. On or before March 1, 2004, and on or before September 1, 2004, the
8 commission shall present to the governor, the speaker of the house of representatives, and the
9 president of the senate an interim progress report informing them of the scope and progress of the
10 commission's work, to date. The commission shall report its findings and recommendations to
11 the governor, the speaker of the house, and the president of the senate by January 1, 2005, which
12 recommendation shall include such proposals as the commission deems necessary or appropriate
13 for amendments to this chapter.

14 (3) The commission shall meet at the call of the chair, and shall have the power to adopt
15 bylaws for its organization and appoint such officers and committees as it deems appropriate.

16 (4) All departments and agencies of the state shall furnish such advice and information,
17 documentary or otherwise, and such support and assistance as the commission deems necessary
18 or desirable. The director of administration shall arrange meeting space for and organizational
19 support to the commission.

20 (5) The commission shall terminate effective July 1, 2005.

21 (c) In order to provide time for the commission to complete its work, for planning and
22 implementing such changes to programs as may be proposed, and for enacting such changes as
23 may be desirable, that effective dates for implementing the provisions of this chapter pertaining to
24 phase-outs and exemptions (section 23-24.9-7), labeling (section 23-24.9-8), disposal bans
25 (section 23-24.9-9), collection of mercury-added products (section 23-24.9-10), disclosure
26 (section 23-24.9-11), and violations (section 23-24.9-16) shall be July 1, 2005, unless a later date
27 is provided for in the section, and no actions to enforce said provisions may be undertaken until
28 July 1, 2005, or after, provided, however that voluntary use of the provisions shall be facilitated
29 and allowed.

30 SECTION 3. This act shall take effect upon passage.

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LC02181/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- MERCURY REDUCTION AND EDUCATION
ACT

- 1 This act would amend various sections of the mercury reduction and education act.
- 2 This act would take effect upon passage.

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2003 -- S 578
SUBSTITUTE A

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A N A C T

RELATING TO HEALTH AND SAFETY -- MERCURY REDUCTION AND EDUCATION ACT

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Presented by